THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 4592 of 2004

Dated: 2.4.2007

Between:

A.R.Goud.

.... PETITIONER

AND

The Regional Manager,
APSRTC, Nizamabad Region,
Nizamabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 4592 of 2007

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in issuing the proceedings dated 25.2.1999, imposing major punishment of deferment of one annual increment of the petitioner for a period of one year with cumulative effect besides proposing to recover an amount of Rs.1,000/- towards cost of damages caused to the bus, as illegal and arbitrary.

The petitioner is employed as a Driver in APSRTC on 20.2.1988. He was issued a charge sheet, dated 8.5.1998, alleging that he drove the vehicle bearing No.AP 9Z 9113 in a negligent manner as a result of which the bus met with a major accident and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted explanation denying the charge framed against him. The respondent, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of deferment of the annual increment for a period of one year with cumulative effect besides proposing to recover an amount of Rs.1,000/- towards cost of damages caused to the bus. The petitioner's appeal to the 1st respondent in this regard is of no avail. Aggrieved by the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty,

and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]". The learned counsel further submits that the petitioner has already paid the amount towards the damages caused to the bus pursuant to the impugned order. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005, which is in a similar background of facts and circumstances.

On the other hand, learned Standing Counsel appearing on behalf of the respondents-Corporation submitted that the Depot Manager, the 2nd respondent herein, after considering the entire material together with the explanation submitted by the petitioner, has passed the impugned order, hence, no interference is called for therewith.

Heard the learned counsel for both the parties and perused the material available on record.

It is an admitted fact that the respondent imposed punishment of withholding of annual increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in KULWANTH SINGH GILL'S CASE (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry violating the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be

set aside leaving it open to the respondents to pass fresh orders. But to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 25.2.1999 passed by the respondent imposing the punishment of withholding of annual increment with cumulative effect, is modified to that of withholding of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Coming to the question of recovering Rs.1,000/- from the petitioner towards the damages caused to the bus in the accident, learned counsel for the petitioner submits that the amount has already been paid by the petitioner and that no orders are required in that behalf.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 2.04.2007
msv

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[1] 1991 Supp (1) SCC 504